

8. **Standards for Approval** – Except as otherwise provided herein, a use allowed by Special Permit shall conform to all requirements of the zoning district in which it is proposed to be located and the standards contained herein. The Commission may grant a Special Permit after considering the health, safety and welfare of the public in general and the immediate neighborhood in particular, as well as the following factors:

- a. The location and size of the proposed use; the nature and intensity of the operations associated with the proposed use; the size, shape and character of the site in relation to the proposed use;
- d. The existing and future character of the neighborhood in which the use is proposed to be located, and the compatibility of the proposed use with the neighborhood;

Guidance on PA 21-29 states the following:

- *Consideration of Character.*

The bill eliminates the requirement that zoning regulations be made with (1) reasonable consideration as to the character of the district and its peculiar suitability for particular uses and (2) a view toward conserving the value of buildings.

The bill will instead require that regulations shall be drafted with “reasonable consideration to the physical site characteristics of the district and its peculiar suitability for particular uses and with a view to encouraging the most appropriate use of land throughout a municipality.”

As you note, effective October 1, 2021 is the following:

(d) Zoning regulations adopted pursuant to subsection (a) of this section shall not:

*(10) **Be applied to deny** any land use application, including for any site plan approval, special permit, special exception or other zoning approval, on the basis of (A) a district's character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures, or (B) the immutable characteristics, source of income or income level of any applicant or end user, other than age or disability whenever age-restricted or disability-restricted housing may be permitted.*

The operative term here is “Be applied to deny”. Which means that the language can remain in the zoning regulations (for now), but you cannot reference “character” in a decision to deny an application.

My advice is to:

1. Remove the vague references to character in the zoning regulations as part of our Phase 1 rewrite. We can tackle this in the next couple of months (no need to act on this now).
2. Replace references to “character” with language that articulates clear and explicit standards as appropriate as part of our Phase 1 rewrite and adopt as part of the adoption of all Phase 1 revisions.
3. Avoid any reference to “character” in the denial of any land use applications moving forward. Be thorough in stating all other reasons for the denial.



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